



Fred M. McQueary, Chairman of the Board  
Ronald J. Streck, President & CEO

# National Wholesale Druggists' Association

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QA 20680

F HWA 97-2299-55

July 29, 1996

Rodney E. Slater, Federal Highway Administrator  
c/o FHWA Docket No. MC-96-18  
FHWA  
Office of Chief Counsel  
HCC-10, Room 4232  
400 Seventh Street, SW  
Washington, DC 20590

Re: Rules of Practice for Motor Carrier Proceedings, Investigations,  
Disqualifications and Penalties, 61 FR 18866 (April 29, 1996)

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LEGS./REGS. DIV.

ADMINISTRATION

Dear Mr. Slater:

The National Wholesale Druggists' Association (NWDA) is the national trade association representing full-line, full-service drug wholesalers. NWDA active member companies operate approximately 230 distribution centers in the United States and distribute a majority of all prescription drugs as well as over-the-counter drugs and health and beauty aids in the United States. NWDA members, in the distribution of its orders, is subject to the Hazardous Materials Regulations (HMR) issued by the Research and Special Programs Administration (RSPA); these regulations are enforced by FHWA when such goods are transported by highway. These comments are being submitted to FHWA on its proposed rewrite of its regulations relating to motor carrier administrative proceedings, employer obligations and inspection procedures.

In general, NWDA supports FHWA's attempts to provide more efficient regulations and thereby streamline the enforcement process, not only for alleged violators but for FHWA as well. The employer obligations proposed in new section 361.105 of 49 CFR (posting notices of violations when required and requirement that employer maintain a copy of FHWA regulations are reasonable and not unduly burdensome given the potential safety benefits that could result from the provision of such information. However, new Section 361.106 (vehicle inspections) could be problematic not only for the drug wholesale industry but for other industries that deal in time sensitive deliveries.

Many contracts between wholesale druggists and their customers provide for delivery of the order within a matter of hours; this is particularly true in contracts between a hospital and a wholesaler where the delivery of a particular order could be vital to a patient's health. Allowing FHWA inspectors to conduct roadside inspections will substantially interfere with this type of delivery process and with a wholesaler's ability to comply with the terms of its contracts.

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MEMBER ASSOCIATION

Although we support the concept of vehicle inspection when a carrier is either at the pick-up site or after the delivery has occurred, roadside inspections will be an added burden for already difficult delivery scenarios.

Because NWDA members could be subject to FHWA enforcement proceedings if found in violation of the HMRs, we support any revisions proposed by FHWA that would provide the affected party with adequate information concerning alleged violations and adequate due process. FHWA's attempts to streamline its procedures by enactment of new part 363 of 49 CFR should facilitate enforcement proceedings not only for FHWA but for the affected parties as well.

We appreciate the opportunity to comment on these proposed regulations. If you have any questions, please do not hesitate to contact us.

Sincerely,



Diane P. Goyette  
Director of Regulatory Affairs

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